

### Remarks

Claims 1-5 are currently pending in the Application.

#### Telephone conference

Applicants thank the Examiner for the many courtesies extended during the telephone conference held with the undersigned, Attorney Alessandro Steinfl, on September 16, 2005. During the telephone conference it was agreed that the finality of the response mailed on May 27, 2005 has been withdrawn in view of the presently pending non-final Office Action mailed on September 1, 2005.

#### 35 U.S.C. §102(e) Rejection

Claims 1 and 3-5 stand rejected under 35 U.S.C. §102(e) as being anticipated by Clark (U.S. Patent No. 6,815,816). Applicants respectfully disagree.

The Examiner is reminded that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP 2131 quoting *Verdegaal Bros. V. Union Oil Co, of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The Examiner is also reminded that “[the] identical invention must be shown in as complete detail as is contained in the ... claim.” MPEP 2131 quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants submit that the Examiner has not shown that Clark teaches each and every element as set forth in the rejected claims. In particular:

#### Claim 1

A. Applicants submit that the Examiner has not shown that Clark discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 1 of the present application:

“an electrically conductive doped channel providing an **electrical connection** between said at least two active areas” (emphasis added)

The Examiner asserts that the “two active areas” as recited in Claim 1 is disclosed by Clark’s regions “11 and 12.” See page 2, last paragraph of the Official Action. The Examiner also asserts that the “electrically conductive channel” as recited in Claim 1 is disclosed by Clark’s implant “14.” See page 2, last paragraph of the Official Action. Applicants respectfully traverse the Examiner’s assertion.

According to Clark, the regions “11 and 12” are N-type regions and the implant “14” is a P-type implant. Clark states that because a P-type implant “14” is of opposite conductivity type to N-type regions “11 and 12,” P-type implant “14” is **not** able to provide electrical connection between N-type regions “11 and 12.” See column 3, lines 64-67 of Clark. Therefore, Clark’s P-type implant “14” does not teach, disclose or suggest “an electrically conductive doped channel providing an **electrical connection** between said at least two active areas” (emphasis added) as recited in Claim 1.

If the Examiner insists that a P-type implant “14” is able to provide an electrical connection between N-type regions “11 and 12,” Applicants respectfully request, under 37 C.F.R. § 1.104(d)(2), that the Examiner provide an Affidavit supporting the Examiner’s assertions as the Examiner appears to rely on facts within his personal knowledge. If the Examiner is relying on a prior art reference Applicants respectfully request that the Examiner cite the reference. Otherwise, Applicants respectfully request that the assertion be withdrawn.

Hence, Claim 1 is patentable over Clark and should be allowed by the Examiner. Claims 2-5, at least based on their dependency on Claim 1, are also believed to be patentable over Clark.

**B.** Applicants submit that the Examiner has not shown that Clark discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 1 of the present application:

“a first conductive layer **disposed over** ... said electrically conductive channel ... a second conductive layer **disposed over** ... said electrically conductive channel” (emphasis added)

As stated above, the Examiner asserts that the “electrically conductive channel” as recited in Claim 1 is disclosed by Clark’s implant “14.” See page 2, last paragraph of the Official Action. Applicants respectfully traverse the Examiner’s assertion.

Applicants submit that the Examiner failed to comply with 37 C.F.R. §1.104(c)(2) which states:

“In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes invention other than that claimed by Applicant, **the particular part relied on must be designated as nearly as practicable**. The pertinence, if not apparent, must be clearly explained and each rejected claim specified” (emphases added).

Applicants submit that the Examiner has failed to “designate as nearly as practicable” the particular part of Clark relied upon in making the assertion that Clark teaches “a first conductive layer **disposed over** ... said electrically conductive channel” (emphasis added) and “a second conductive layer **disposed over** ... said electrically conductive channel” (emphasis added) as recited in Claim 1. In reviewing the Clark reference, Applicants were unable to find support for the Examiner’s conclusion that Clark discloses “a first conductive layer” and/or “a second conductive layer” as recited in Claim 1 being disposed over Clark’s P-type implant “14.” Contrary to the Examiner’s assertion, Clark does not disclose any conductive layers being disposed over Clark’s P-type implant “14.” See Figure 1 of Clark.

Hence, Claim 1 is patentable over Clark and should be allowed by the Examiner. Claims 2-5, at least based on their dependency on Claim 1, are also believed to be patentable over Clark.

C. Applicants submit that the Examiner has not shown that Clark discloses, suggests or teaches, *inter alia*, at least the following features recited by Claim 1 of the present application:

“a ... portion of the electrically conductive doped channel between said first conductive layer and said second conductive layer is **uncovered**”  
(emphasis added)

As stated above, the Examiner asserts that the “electrically conductive channel” as recited in Claim 1 is disclosed by Clark’s implant “14.” See page 2, last paragraph of the Official Action. Applicants respectfully traverse the Examiner’s assertion.

At least for the reasons stated above, Clark does not teach, disclose or suggest first conductive layer” and “said second conductive layer” as recited in Claim 1. Hence, Clark does not teach, disclose or suggest that a “portion of the electrically conductive doped channel between said first conductive layer and said second conductive layer is **uncovered**” (emphasis added) as recited in Claim 1.

Hence, Claim 1 is patentable over Clark and should be allowed by the Examiner. Claims 2-5, at least based on their dependency on Claim 1, are also believed to be patentable over Clark.

### **35 U.S.C. §103(a) Rejection**

Claim 2 stands rejected under 35 U.S.C. §103(a) as being obvious in view of Clark and further in view of Scott (U.S. Patent No. 6,326,675).

A. Applicants submit that Claim 2, at least based on its dependency on Claim 1, is believed to be patentable over Clark and Scott, because there is no prima facie 35 USC 103(a) case based on Clark, as shown above, and because the Examiner has not shown to the Applicants where Scott discloses, teaches or suggests the features not found in Clark.

**B. Applicants further submit that the Clark reference is an improper reference under 35 U.S.C. §103(c).**

35 U.S.C. §103(c)states:

“subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” See MPEP §2146.

The Examiner has already stated that the Clark reference potentially qualifies as “prior art” under 35 U.S.C. §102(e). See page 2, lines 13-14 of the Office Action. Applicants further submit that the subject matter of the Clark reference and the presently claimed invention were commonly owned at the time the present invention was made. Therefore, the Clark reference “is **not to be considered** when determining whether an invention sought to be patented is obvious under 35 U.S.C. 103.” See MPEP §2146. Hence, Claim 2 is patentable over Clark and should be allowed by the Examiner.

The Examiner is encouraged to contact the undersigned to discuss any other issues requiring resolution.

Conclusion

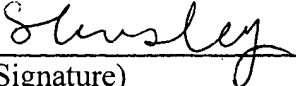
In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents POB 1450, Alexandria, VA 22313-1450 on

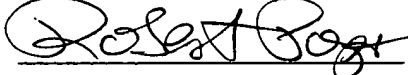
November 18, 2005  
(Date of Deposit)

Shannon Tinsley  
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(Signature)

November 18, 2005  
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Respectfully submitted,



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